

## **The complaint**

Mr D has complained that Bank of Scotland plc (trading as Halifax) unfairly applied charges to his account, contributing to his financial difficulties.

## **What happened**

Mr D complained to Halifax about the charges that had been applied to his account for using his overdraft, he said that these had contributed to his financial difficulties.

Halifax didn't uphold the complaint, and as Mr D was dissatisfied, he referred the complaint to our service.

Mr D's complaint was considered by one of our adjudicators. He explained that he felt Halifax should have realised Mr D might be struggling financially by April 2020 and so recommended that it refund all charges and interest applied from that point onwards. Halifax disagreed so the case was passed to an ombudsman.

I issued my provisional decision on this case on 9 March 2022 explaining why I wasn't intending to uphold Mr D's complaint. Mr D has responded explaining why he disagrees. Specifically, he feels that if he had not been mis-advised to enter a debt management plan by a third party debt management company in around December 2020 then he would likely not have reached the point where his account with Halifax defaulted, given that Mr D's complaint against the debt management company has been upheld he considers that Halifax should amend his credit file.

## **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In my provisional decision I explained the following:

*"Before I go any further, I want to be clear in saying that I haven't considered whether the various amounts Halifax has charged Mr D over the years were fair and reasonable. Ultimately how much a bank charges for services – and how and when it chooses to apply those charges – is a commercial decision. So this isn't something for me to get involved with.*

*That said, while I'm not looking at Halifax's charging structure per se, it won't have acted fairly and reasonably towards Mr D if it continued to apply any interest, fees and charges to his account – and didn't offer any other assistance – in circumstances where it was aware, or it ought fairly and reasonably to have been aware, that he was experiencing financial difficulty. So I've considered whether there were instances where Halifax didn't treat Mr D fairly and reasonably.*

*But based on what I've seen so far, I don't think that Halifax did treat Mr D unfairly or unreasonably, I'll explain why.*

*Mr D opened his account in May 2018, he started using an overdraft on this account in around November 2018, and it seems this overdraft facility was then reviewed yearly in November. So if Halifax was to identify any financial difficulties, and then step in to offer help to Mr D, I would expect this to happen around the time of each overdraft review, unless there was a specific incident at another time in the year which I think should have alerted Halifax to any difficulties.*

*I can see that for the early part of 2019 Mr D did regularly make use of payday lenders to supplement his income. But I wouldn't expect that alone to trigger Halifax to review Mr D's account outside of its normal overdraft review process. And by November 2019 – when Halifax reviewed Mr D's overdraft facility – Mr D seemed to have broken any cycle of payday lending he was in as he didn't appear to have taken any new lending from payday lenders for around three months. Mr D had also made some large payments into his account from another business account he held and had repaid his overdraft in full on a couple of occasions in the preceding months. All this means that I don't think there was anything to flag to Halifax at that time that Mr D might be struggling financially or need help managing his account.*

*Halifax's next overdraft review was scheduled for November 2020, and I don't think there was anything prior to that date which should have triggered Halifax to look at Mr D's account in more detail. He maintained his account within the arranged overdraft limit and made regular large payments in to reduce the balance.*

*Mr D has said that he had a problem with gambling which he feels was evident from how he used his account. But I don't agree that it would have been clear to anyone reviewing his account that he was struggling with gambling. There weren't excessive payments direct to gambling websites or betting companies, and I can't see anything in Halifax's notes to suggest that Mr D told it about his gambling problems until at least 2021. So I don't think there were any obvious signs of a problem that should have flagged to Halifax that Mr D might need some help.*

*However, when Halifax reviewed Mr D's overdraft limit in November 2020, I think it should have identified that there was a problem. Mr D's use of payday loans had increased again following the November 2019 review and his account was showing other signs of difficulties, such as payments being returned because he didn't have the funds to cover them and his account only generally being in credit for one day or so each month. With this in mind I think that Halifax should have taken steps at this stage to see if Mr D needed any help.*

*However, Halifax has already refunded to Mr D the majority of the charges that were applied to his account after this point, so I don't think it needs to do anything more. I appreciate that Mr D is unhappy that his account was ultimately defaulted – and that this is recorded on his credit file. But I think that even if Halifax had stepped in to help him in November 2020, rather than in early 2021, it's more likely than not that his account would still have defaulted. And ultimately, as it seems that Mr D was not able to repay the balance of his account, the information recorded on Mr D's credit file about this account is accurate, so I don't think it would be reasonable to ask Halifax to change that information or to remove the default."*

*I've thought carefully about what Mr D has said in response to my provisional decision, and I appreciate why he feels that the default should be removed from his credit file. But I still don't think that Halifax has done anything wrong here.*

*What Halifax has recorded about Mr D's account is an accurate reflection of how he managed his account. Regardless of the reasons why, Mr D's account was in an overdrawn position for an extended period of time with only small payments made to*

reduce the balance. I would expect a bank to take steps to default an account in those circumstances, so I don't think I can fairly say that Halifax has done anything wrong here. Mr D can, if he chooses, ask for a notice to be added to his credit file explaining what happened with his debt management plan, but I don't think I can fairly say that Halifax should remove the default that it recorded.

I know this will be disappointing for Mr D but I remain satisfied that Halifax has treated him fairly and I won't be asking it to do anything more.

### **My final decision**

For the reasons I've explained, I don't intend to uphold Mr D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 10 May 2022.

Sophie Mitchell  
**Ombudsman**